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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/816,045	04/01/2004	Venkat Selvamanickam	1014-SP127	9625
34456 7590 12/31/2008 LARSON NEWMAN ABEL & POLANSKY, LLP 5914 WEST COURTYARD DRIVE SUITE 200 AUSTIN, TX 78730			EXAMINER TALBOT, BRIAN K	
			ART UNIT 1792	PAPER NUMBER
			MAIL DATE 12/31/2008	DELIVERY MODE PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/816,045

**Applicant(s)**

SELVAMANICKAM ET AL.

**Examiner**

Brian K. Talbot

**Art Unit**

1792

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 29 September 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 2-14, 16-21, 27-31 and 33 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 2-14, 16-21, 27-31, 33 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/808)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. The amendment filed 9/29/08 has been considered and entered. Claims 1,15,22-26,32 and 34-40 have been canceled. Claims 2-14,16-21,27-31 and 33 remain in the application.
2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

***Claim Rejections - 35 USC § 103***

3. Claims 2-14,16-21,27-31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al. (2004/0016401) further in combination with JP 02-118075 and JP 02-118,061 still further in combination with Goyal et al., "Processing of High Temperature Superconductors" still further in combination with Glowacki et al. (6,251,834).

Ignatiev et al. (2004/0016401) teaches a method and apparatus for forming a superconductor material on a tape substrate. The invention uses a pay-out reel and take-up reel to dispense and spool the tape. The process utilizes a reaction chamber for cleaning the substrate, applying buffer layers and applying superconductor layers (abstract). The tape (408) should be cleaned and free of grease and other contaminates. A vapor degreaser or cleaner can be used in the pre-clean stage. Alternatively a mechanical cleaner or ultrasonic bath can be utilized. Initialization stage pre-heats and or pre-treats the tape (408) (col. 3, [0031] – [0033]).

R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" teaches a continuous reel-to-reel deposition of oriented buffer layers and RBCO-superconductor. In a first step, a high temperature steel tape is electropolished and cleaned at a speed of 5-10 m/h to remove defects and to provide a surface finish (rms of less than 1.5 nm). Subsequently a MgO buffer layer is grown at room temperature using ISD and then a superconductor layer of RBCO is applied epitaxially. A final sputtering step of applying a gold/silver layer to the superconductor layer is disclosed. The  $T_c$  is 77K.

R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" fails to teach the claimed pretreatment by "mechanical waves".

Ignatiev et al. (2004/0016401) teaches cleaning a substrate prior to applying buffer and superconductive layers including an ultrasonic bath.

Therefore it would have been obvious at the time the invention was made to have modified R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" by substituting one well known precleaning treatment (ultrasonic waves) for another (electropolishing) as evidenced by Ignatiev et al. (2004/0016401) with the expectation of achieving similar success.

Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al. (2004/0016401) fail to teach utilizing a plasma pretreatment as well.

JP 02-118075 and JP 02-118,061 both teach advantages associated with plasma cleaning a substrate (in this case another superconductive layer) prior to forming a second

superconductive layer to remove contaminates and improve adhesiveness between the layers (abstract).

Therefore it would have been obvious at the time the invention was made to have modified Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al. (2004/0016401) process by incorporating a plasma pretreatment as evidenced by JP 02-118075 and JP 02-118,061 with the expectation of improving the adhesiveness between the substrate and the superconductive coating.

Features described above concerning Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al. (2004/0016401) further in combination with JP 02-118075 and JP 02-118,061 are incorporated here.

Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al. (2004/0016401) further in combination with JP 02-118075 and JP 02-118,061 fail to teach a biaxially textured buffer layer of a superconductor layer being applied by IBAD.

Goyal et al., "Processing of High Temperature Superconductors" teaches a biaxially textured buffer layer of a superconductor layer being applied by IBAD deposited on polished steel substrates (abstract).

Therefore, it would have been obvious at the time the invention was made for one skilled in the art at to have modified Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al.

(2004/0016401) further in combination with JP 02-118075 and JP 02-118,061 process by forming a biaxially textured buffer layer of a superconductor layer being applied by IBAD as evidenced by Goyal et al., "Processing of High Temperature Superconductors" with the expectation of achieving similar success.

Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al. (2004/0016401) further in combination with JP 02-118075 and JP 02-118,06 in combination with Goyal et al., "Processing of High Temperature Superconductors" fail to teach the claimed pretreatment step of annealing.

Glowacki et al. (6,251,834) teaches improved substrate from growing superconducting oxide materials whereby the substrate is pretreated by an annealing procedure (col. 2, line 40 – col. 3, line 30).

Therefore it would have been obvious at the time the invention was made to have modified Ignatiev et al. (2004/0016401) alone or R. Nenetschek, et al., "Continuous Coated Conductor Fabrication by Evaporation" in combination with Ignatiev et al. (2004/0016401) further in combination with JP 02-118075 and JP 02-118,061 in combination with Goyal et al., "Processing of High Temperature Superconductors" process by substituting one well known precleaning treatment (annealing) for another (electropolishing/ultrasound waves) as evidenced by Glowacki et al. (6,251,834) with the expectation of achieving similar success.

With respect to claims 2-6,9 and 10 the claims recite sound waves, water medium, frequency of the waves and reel speed. It is the Examiner's position that these features are all "result effective" variables that are optimized through routine experimentation of a practitioner

in the art. Absent a showing of unexpected results regarding these features, it is the Examiner's that it would have been obvious for one skilled in the art to have selected the claimed features with the expectation of achieving similar success.

With respect to claims 11-13, the claims recite a polishing step. The art teaches cleaning and polishing as viable pretreatment steps and one skilled in the art would have had a reasonable expectation of achieving an additive effect by utilizing more than one conventional precleaning step to produce a "clean" substrate.

#### ***Response to Amendment***

4. Applicant's arguments with respect to claims 2-14, 16-21, 27-31 and 33 have been considered but have not been found persuasive.

Applicant argued that Glowacki et al. (6,251,834) teaches annealing to form a non-random textured substrate and that annealing is done prior to cleaning and/or after depositing but not after cleaning.

The Examiner agrees in part. However, Glowacki et al. (6,251,834) teaches improved substrate from growing superconducting oxide materials whereby the substrate is pretreated by an annealing procedure (col. 2, line 40 – col. 3, line 30) and therefore would suggest to one skilled in the art to perform a pretreating annealing step.

In addition, in response to applicant's argument that the applicant has a different reason for, or advantage resulting from doing what the prior art relied upon has suggested, it is noted

that it is well settled that this is not demonstrative of non-obviousness, *In Re Kronig* 190 USPQ 425, 428 (CCPA 1976); *In Re Lintner* 173 USPQ 560 (CCPA 1972); the prior art motivation or advantage may be different than that of applicant while still supporting a conclusion of obviousness. *In Re Wiseman* 201 USPQ 658 (CCPA 1979); *Ex Parte Obiaya* 227 USPQ 58 (Bd. of APP. 1985).

Furthermore, the Examiner questions how the combination of references teaching a polishing/degreasing/annealing/cleaning/depositing process would produce different ‘textures’ than that of the instant claims when the processing steps are similar. Clarification is requested which may help further differentiate the instant claims from the prior art. Applicant is reminded that the claims need to be commensurate in scope with any such showing.

5. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.



6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian K. Talbot whose telephone number is (571) 272-1428. The examiner can normally be reached on Monday-Friday 8AM-4PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Timothy H. Meeks can be reached on (571) 272-1423. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Brian K Talbot/  
Primary Examiner, Art Unit 1792

BKT